

North Central Texas Council Of Governments

January 6, 2015

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Ms. Kris Hogan
Office of Legal Services
Texas Commission on Environmental Quality
PO Box 13087, MC 205
Austin, TX 78711-3087

Subject: Public Comment on Proposed Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) Revisions to 30 Texas Administrative Code
Chapter 114 – Control of Air Pollution from Motor Vehicles, Rule Project Number 2014-027-114-AI

Dear Ms. Hogan:

The North Central Texas Council of Governments (NCTCOG) is the regional administrator for LIRAP in the Dallas-Fort Worth area and appreciates the opportunity to comment on the Texas Commission on Environmental Quality's (TCEQ) proposed revisions to 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution From Motor Vehicles. NCTCOG would like to provide the following comments on the proposed revisions to help optimize the program.

Distribution of Unspent Allocated Funds upon LIRAP Opt-Out Effective Date

The Commission requested comments concerning the program opt-out options proposed. NCTCOG believes counties should have the ability to decide when to opt out of the program, and the options provided will give counties additional flexibility to spend previously allocated funds. However, in subsection 114.64(g)(3), the TCEQ proposes that funds allocated to a county opting out of LIRAP that have not been spent upon the county's LIRAP Opt-Out Effective Date shall be returned to the TCEQ. This arrangement may prove complicated since all participating counties in the Dallas-Fort Worth (DFW) area agreed to share funding and have NCTCOG regionally administer the program. An Inter-County Cooperative Agreement between participating counties in DFW allows funds to be combined and shared between them. If funds from a county that has opted out of LIRAP have been previously used by other counties within the region, it may not be possible to return them. NCTCOG recommends the proposed rules be amended to address this situation and allow funds that were allocated, but unspent by a county upon its LIRAP Opt-Out Effective Date to be used by other participating counties in the same region without requiring the funds to be returned to the TCEQ.

NCTCOG also recommends that the TCEQ develop a process for the distribution of funds previously collected from a county but not yet appropriated if that county chooses to opt out of LIRAP. Since Fiscal Year 2012, LIRAP fees collected have accrued at a much faster rate than what has been appropriated creating a large surplus of funds. Counties choosing to opt out of LIRAP fee collection should have the opportunity to utilize all previously collected

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funds after the LIRAP Opt-Out Effective Date until all funds have been exhausted. As the 84th Texas Legislative Session begins this month, possible program modifications may occur that provide counties greater flexibility on ways to utilize surplus funds. NCTCOG also recommends that the TCEQ promptly alert all counties of any program modifications resulting from legislative action.

Recordkeeping and Auditing Requirements for Non-Participating Counties

Related to subsection 114.70(c) and (d), NCTCOG supports the requirement that program-related records should be maintained for three years after the LIRAP Opt-Out Effective Date and that the non-participating county, its designated entity, Recognized Emissions Repair Facilities, and participating vehicle retirement facilities shall allow the TCEQ to audit and inspect records. However, NCTCOG recommends that automobile dealerships also be added to the list of parties that must keep records and be subject to audits.

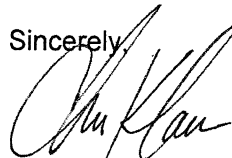
LIRAP Fee Termination Effective Date

The Commission requested comments related to the element of subsection 114.64(g)(2) that requires several months between the time a county notifies the TCEQ that they wish to opt out of LIRAP and the actual LIRAP fee termination effective date. NCTCOG believes this is reasonable based on the process the TCEQ and other relevant state agencies must undertake once an opt-out notice is received from a participating county.

Thank you for this opportunity to comment. While NCTCOG appreciates that the TCEQ is holding a public hearing to receive comments on these proposed rules in Austin on January 6, 2015; NCTCOG would have hoped that the TCEQ would also hold a public hearing in the Dallas-Fort Worth area since Collin County's desire to opt out of LIRAP was the catalyst that initiated this rulemaking.

We look forward to a continued partnership with the TCEQ as we work together towards the common goal of cleaner air. If you have any questions, please feel free to contact Shannon Stevenson, Program Manager, at (817) 608-2304 or sstevenson@nctcog.org.

Sincerely,



Chris Klaus
Senior Program Manager

SD:mg

cc: The Honorable Keith Self, Judge, Collin County
Richard A. Hyde, P.E., Executive Director, TCEQ
David Brymer, Air Quality Division Director, TCEQ
Michael Morris, P.E., Director of Transportation, NCTCOG